



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/537,305

08/04/2005

Ludwig Viezens

GAS-008

1702

32628

7590

09/04/2008

KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

EXAMINER

EPPES, BRYAN L

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

09/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,305	Applicant(s) VIEZENS ET AL.	
	Examiner BRYAN EPPES	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action on the merits for application serial number 10/537,305 filed 6/02/2005. Claims 1-16 are pending.

Drawings

1. The drawings are objected to because:
 - a. Reference character "10" has been used to describe both a tube and hose (Example Pg. 3 Lines 32 and 34); while it is clear Applicant intends to describe the same feature, please maintain the same descriptive terminology throughout.
 - b. Reference character "5" has been used to describe both a bored hole and mesh sleeve (Pg. 4 Lines 29 and 31).
 - c. The additional engineering nomenclature found in the figures is not necessary and therefore should be removed, for example:
 - i. The "sectional figure" titles
 - ii. The dimensional scales referencing diameters
 - iii. The additional text describing the "Plate" and "Threaded bar with metric thread"

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

Art Unit: 3635

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1 is objected to because of the following informalities: The preamble refers to a "device" which appears to be used with a threaded bar extending from a holding element, whereas the limitations are directed to the holding element. A suggestion in the alternative would be "A facade anchoring system including a threaded bar extending from a holding element for the fastening of facade plates." This, or similar, approach may improve the clarity of the claim with respect to scope (i.e. it is a device or holding element and is a threaded bar a required limitation).

3. Claim 6 is objected to because of the following informalities: The claim appears to introduce a feature described as an elastic tube to the holding element in addition to the "wall of elastic material" found in claim 1. It seems the intent of Applicant is for the wall made of elastic to be a tube located on the holding element.

Art Unit: 3635

4. Claims 7-9: The phrase "the elastic tube" lacks proper antecedent basis.
5. Claim 16: The phrase "wherein the opening" lacks proper antecedent basis.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. The following claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- d. Claim 1: The term "near" is ambiguous with respect to the actual relationship between the holder and bar.
- e. Claims 7 and 9: The term "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
- f. Claim 12: The language "using the device as defined in one of the preceding claims" is improper and must be written in the alternative format. As written, the scope of the claim is unascertainable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3635

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann et al. (U.S. 5,007,780).

g. Claims 1, 4, and 5: Hoffmann et al. (hereinafter Hoffmann) discloses a holding element 1 on a first end, shown generally by the arrow "S", including an annular space, described as a portion of the passageway having a radial surrounding recess in the form of internal threads 1b for a threaded bar,

Wherein a channel, described as the passageway extending from the designated annular space toward second end generally at 1a,

And wherein the second end includes a valve 4 capable of closing the channel (See Fig.3).

Hoffmann lacks wherein the annular space wall is elastic, however Hoffmann teaches the holding element may be synthetic, one example of which is Nylon (Col. 6 Lines 9-15) a plastic material having elastic properties.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to substitute a plastic material having elastic properties for that of the holding element as suggested by Hoffmann and further since the material would not yield any new or unexpected results.

h. Claims 2 and 6: Hoffmann discloses the holding element including an elastic tube, described as a nylon bag 3 (Col. 6 Lines 9-15), on the second end which results in a larger diameter on the second end than on the first (See Fig. 3).

Art Unit: 3635

- i. Claim 3: Hoffman discloses the holding element tapering conically from the second to first end (See Fig. 3).
 - j. Claim 9: Hoffmann discloses the holding element wherein the elastic tube 3 is fastened on flange 1c via mounting element 2 located on the first end (Fig. 3).
 - k. Claims 10 and 11: Hoffmann discloses the holding element wherein the second end includes an undercut projection, shown as the distal end of the second portion separated from the main body of the holding element 1 by a central recess provided for attaching the nylon bag 3 (See Fig. 3). In this case, the recess is being interpreted as central since the undercut is situated near and around a central axis.
8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann et al. (U.S. 5,007,780) in view of Fischer et al. (U.S. 4,893,974).
- l. Claim 8: Hoffmann discloses all the limitations of the claim as described above, but lacks wherein the elastic tube extends essentially over the entire axial length of the holding element. Fischer et al. teaches a tube extending essentially over the entire axial length of a holding element to provide a larger surface area of contact between the settable material and element which further secures the element to the contours of the bored hole. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the Hoffman elastic tube with one extending essentially over the entire axial length of the holding element to provide a larger surface area of contact between

Art Unit: 3635

the settable material and element which further secures the element to the contours of the bored hole.

Allowable Subject Matter

9. Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN EPPES whose telephone number is (571)270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/B. E./
Examiner, Art Unit 3635